IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1273 OF 2005
Along with
Civil Application no.802 of 2004

Prabhakar Ganesh Khatavkar, .. Appellant.
(Orig.Plff)

Vs

Shrinivas Laxman Dombe, .. Respondent
(Orig.Deft0

Mr A.B.Avhad, for the appellant.

Mr A.M.Kulkarni, for the respondent.

CORAM : D.B.BHOSALE,J.
DATE : 29.01.2007.

PC:

1. Heard the learned counsel for the parties.

2. Relief of specific performance has been denied to the appellant-plaintiff by the trial court vide its judgment and order dated 25.4.1996. The appeal court has confirmed the findings on all the issues vide its judgment and order dated 29.11.2003. Both the courts, after having taken into consideration the entire material placed on record, have recorded a categoric finding that the transaction between the appellant and the respondent was a loan transaction. It is evident from the facts and circumstances of the case that it was

a loan transaction. It appears that when the agreement for sale was executed the respondent had no title to the suit property. Mr.Avhad, learned counsel for the appellant, could not and did not dispute this fact. The courts below have taken several facts and circumstances into consideration for holding that the transaction between the parties was not genuine transaction of sale but it was a loan transaction. No substantial question of law was either raised or involved in the appeal. Keeping that in view and considering the concurrent findings of facts and as I find that there is sufficient material on record to sustain those findings and considering the extremely limited jurisdiction of this Court under section 100 of C.P.C to disturb the findings of fact, this appeal fails and is dismissed as such. As a consequence thereof, the civil application is disposed of.

(D.B.BHOSALE,J.)